

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PETER A. RAETSCH, GERALDINE
RAETSCH and CURTIS C. SHIFLETT,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

LUCENT TECHNOLOGIES, INC., LUCENT
TECHNOLOGIES, INC. EMPLOYEE
BENEFITS COMMITTEE, AND LUCENT
TECHNOLOGIES, INC. MEDICAL EXPENSE
PLAN FOR RETIRED EMPLOYEES,

Defendant.

Civil Action No. 05-cv-5134 (PGS)

ORDER

WHEREAS, defendant, Lucent, seeks certification of the Court's June 12, 2008 Order and Opinion pursuant to 28 U.S.C. §1292(b) to the United States Court of Appeals for the Third Circuit;

WHEREAS said statute permits certification to be granted upon a showing of three factors.

Namely, the Court must find:

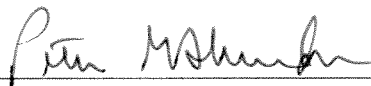
- (1) the certified order must involve a controlling question of law;
- (2) there must be a substantial difference of opinion with regard to that question; and
- (3) the immediate appeal must materially advance the ultimate termination of the litigation. 28 U.S.C. § 1292(b).

WHEREAS, the Court finds that the third factor has not been satisfied. An appeal will not materially advance the ultimate termination of the litigation because discovery is incomplete, and there are further questions of fact and law which must be determined before an appeal would be ripe

for determination. In addition, the Court is mindful that the policy behind said statute is to avoid piecemeal litigation and to grant said motion at this time would be contrary to that policy. *Backowski v. Usery*, 545 F. 3d 363, 366 (3d Cir. 1976).

NOW, THEREFORE, it is on this 2 day of ^{September}~~August~~, 2008;

ORDERED that Lucent's motion for certification pursuant to 28 U.S.C. § 1292(b) is denied.



PETER G. SHERIDAN, U.S.D.J.